

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOSE VENTURA,

Plaintiff,

v.

**Hon. Hugh B. Scott**

01CV434E

**Order**

DR. SINHA, et al.,

Defendants.

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Plaintiff once again has applied (for the fifth time, see Docket Nos. 10, 26, 42, 51; see also Docket Nos. 14, 29, 43, 52 (orders denying application)) to the Court for appointment of counsel pursuant to 28 U.S.C. § 1915(e). (Docket No. 72.) He contends that his primary language is Spanish and that he needs an interpreter and counsel to proceed (Docket No. 72, Pl. Motion ¶¶ C, E). Plaintiff appeared at a status conference on August 30, 2005, by telephone from his correctional facility and indicated his lack of comprehension in English. The Court had to reschedule the conference when plaintiff was furnished with a translator.

Under 28 U.S.C. § 1915(e), the Court may appoint counsel to assist indigent litigants. Sears, Roebuck & Co. v. Charles W. Sears Real Estate, Inc., 865 F.2d 22, 23 (2d Cir. 1988). Assignment of counsel in this matter is clearly within the judge's discretion. See In re Martin-Trigona, 737 F.2d 1254 (2d Cir. 1986). The factors to be considered in deciding whether or not to assign counsel are set forth by the Second Circuit in Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986). Counsel may be appointed in cases filed by indigent plaintiffs where it appears that such counsel will provide substantial assistance in developing petitioner's arguments, the

appointment will otherwise serve the interests of justice, and where the litigant has made “a threshold showing of some likelihood of merit.” Cooper v. A. Sargenti Co., 877 F.2d 170, 174 (2d Cir. 1989).

The Court has reviewed the facts presented herein in light of the factors required by law. Based on this review, plaintiff’s renewed motion for appointment of counsel (Docket No. 72) is **GRANTED**, and appoints **Betty Calvo-Torres, Esq.**, as counsel for the plaintiff, pro bono, pursuant to 28 U.S.C. § 1915(d). Hodge, supra, 802 F.2d 58; Cooper, supra, 877 F.2d 170. The Court Clerk is directed to send a copy of this Order to Ms. Calvo-Torres. The file for this matter is maintained in the Office of the Clerk of the United States District Court in Buffalo, New York. If necessary, the attorney for the plaintiff should make arrangements to meet with a Pro Se Staff Attorney to review the file and obtain copies of the relevant papers.

The Court will schedule a Status Conference once plaintiff’s counsel is familiar with the case.

So Ordered.

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s/HBS  
Hon. Hugh B. Scott  
United States Magistrate Judge

Dated: Buffalo, New York  
October 3, 2005